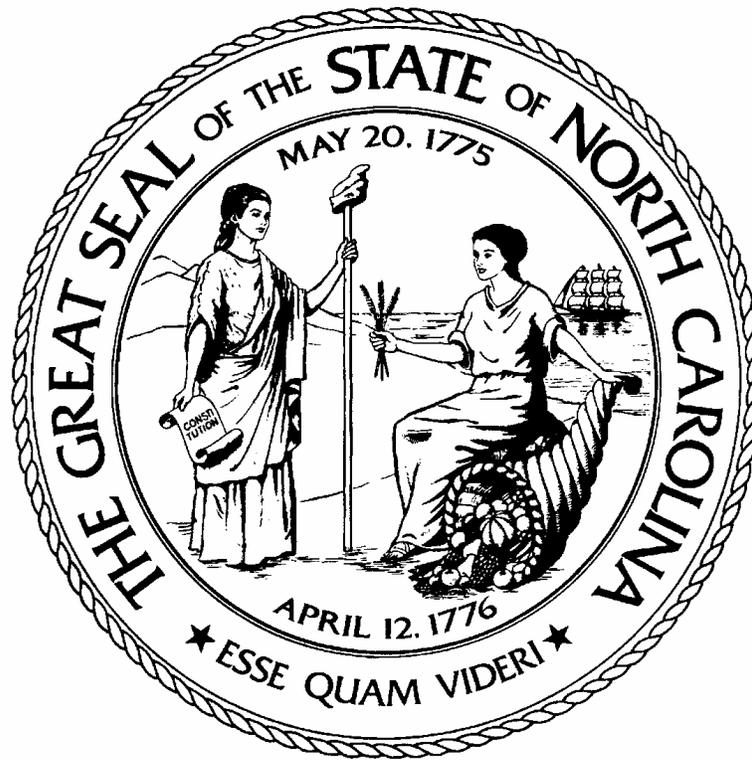


LEGISLATIVE STUDY COMMISSION ON DISASTER RESPONSE AND RECOVERY



INTERIM REPORT TO THE
2001 SESSION OF THE
GENERAL ASSEMBLY
OF NORTH CAROLINA

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Executive Summary

The General Assembly established the Disaster Response and Recovery Commission during the 1999 Extra Session. The Commission has met six times to hear emergency management experts, government officials, and Hurricane Floyd victims. The Commission offers six findings and recommendations based on discussions to date. They are as follows:

1. **Tiered Disaster Proclamation:** Divides disasters into three levels, with a Category III disaster reserved for extreme and widespread devastation.
2. **Disaster Reserve Fund:** Establishes a fund that will specifically designate a portion of the Savings Reserve Account as a Disaster Contingency subaccount. This subaccount would only be used for relief and assistance in the event of a Category III disaster proclamation.
3. **Long-Term Recovery:** Requires that the Division of Emergency Management's Operations Plan be supplemented to include a long-term recovery component.
4. **Disaster Institute:** Requests the University of North Carolina system to propose an institute that would encourage disaster research and provide a source of training.
5. **Performance Audit:** Requests the Office of State Auditor to conduct a program audit of Hurricane Floyd relief and recovery programs funded by the General Assembly.
6. **Strengthen Local Emergency Management:** Recommends that local governments take steps that will help achieve stronger performance and accountability for their Emergency Management teams.

The Disaster Response and Recovery Commission will resume its meeting at the close of the 2001 legislative session, and will issue its final report to the 2002 Session.

**LEGISLATIVE STUDY COMMISSION ON DISASTER RESPONSE AND
RECOVERY—MEMBERSHIP**

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PREFACE

Hurricane Floyd was the worst natural disaster in North Carolina's history. It hit the eastern region of the state on September 16, 1999, causing 52 deaths, damaging 67,000 homes, and wreaking economic devastation estimated at more than \$6 billion. Farmers suffered nearly \$1 billion in crop, livestock, and structural losses. Unprecedented civil, social, and environmental destruction led Governor Hunt to request that the President of the United States declare 66 of North Carolina's 100 counties a disaster area.

Reaction by State, federal, and local governments was swift. As long-term ramifications of the disaster became apparent, the Governor directed both the aggressive pursuit of federal funds and the immediate development of a State-funded recovery program for consideration by the General Assembly. An Extra Session, called by Governor Hunt, convened on December 15, 1999, and \$837 million was appropriated to underwrite Hurricane Floyd recovery.

During its Extra Session, the General Assembly established a Legislative Study Commission on Disaster Response and Recovery. Its duties, outlined in Section 5.(c) of S.L. 1999-463, include studying "[t]he adequacy of the State's short-term and long-term response to natural disasters under current law and necessary modifications in the State's response to future natural disasters...." Additionally, the Commission is to study the "[s]hort- and long-term recovery efforts for Eastern North Carolina in response to Hurricane Floyd and strategies for supplementing, improving, and enhancing those recovery efforts." Finally, the Commission should study "[t]he causes of the flooding and the extent to which each cause contributed to catastrophic flood damage."

The Study Commission met first on August 14, 2000, to begin the process of fulfilling the study requirements set out in S.L. 1999-463. Monthly meetings have been held since that time. Areas of discussion have included North Carolina's history of large, expensive natural disasters, overviews of what other states are doing in the areas of response and recovery planning, and reviews of mitigation policies. The Commission has reviewed the unique recovery programs established after Hurricane Floyd and noted both the strengths and the weaknesses of those efforts. Members of the Commission have learned that North Carolina can take many steps to prevent the destruction caused by devastating natural events. More energetic implementation of these measures would save both lives and property.

Information regarding the Commission's current findings and recommendations that may be considered by the 2001 North Carolina General Assembly are included in this interim report. Also included are the Commission's scope of work and Section 5 of S.L. 1999-463, the law that establishes the Commission. Additional findings and recommendations will be included in the Commission's final report, which will be submitted to the General Assembly on May 1, 2002. Any questions regarding this report may be directed to Andy Willis or Lynn Muchmore in the Fiscal Research Division of the General Assembly.

COMMISSION PROCEEDINGS

The Legislative Study Commission on Disaster Response and Recovery held its first meeting on August 14, 2000, and has convened monthly since that date. Approximately 50 presenters have spoken at these six meetings, discussing everything from how long a disaster proclamation should remain open to how disasters should be funded to how Hurricane Floyd destroyed people's lives. The Commission felt that because disasters affect so many facets of the State's citizens' lives, it was important to hear from numerous disaster experts and disaster victims in order to better understand how disasters affect citizens and what the State can do to better protect itself from future disasters. The Commission focused its meetings on the studies, experiences, and lessons learned from people and organizations across the State and the Southeast.

At the first meeting in August, the Commission was organized and a background was laid for the Commission's work. The Commission heard from various North Carolina government officials, as well as Joe Myers, Florida's Director of Division of Emergency Management.

In September, the Commission began to examine the experiences of other states and the relationship between North Carolina and federal disaster programs. Speakers included Cheryl Runyon of the National Conference of State Legislatures, Dr. Susan Cutter from the University of South Carolina, and other presenters from East Carolina University and The University of North Carolina at Chapel Hill.

Local officials who were directly involved with Hurricane Floyd spoke at the meeting in October. The Commission also heard public comments from nine Floyd disaster victims.

Likewise, in November the Commission heard from additional disaster victims. The Commission also began to discuss specific findings and recommendations.

In December, the Commission continued its work from the November meeting by looking at and discussing 10 findings and recommendations, and then gave preliminary instructions regarding six of those findings and recommendations.

On January 18, 2001, the Commission met to adopt its interim report to the General Assembly. After lengthy discussion, the Commission voted to forward the six interim findings and recommendations that appear on the following pages. Members noted for the record that several of the topics addressed in these recommendations may be revisited when the Commission resumes its work after the 2001 Legislative Session. Particularly important are additional options that may be needed to create an adequate disaster reserve fund.

FINDINGS AND RECOMMENDATIONS

1. Tiered Disaster Proclamations

Finding: Neither North Carolina State disaster declarations nor federal disaster declarations make a distinction between disaster events based on the size and severity of damage. The Federal Emergency Management Agency (FEMA) recovery assistance benefits are the same for every presidentially declared disaster regardless of its scope, severity, or duration. The practical effect of this “one size fits all” approach is to increase the cost of federal disaster assistance because lesser disasters receive benefits at levels higher than can be justified. Likewise, emergency powers granted State and local officials under a gubernatorial declaration do not vary from incident to incident. Failure by State government to distinguish between a truly unique occurrence like Hurricane Floyd and higher probability, less severe events may bring demands for future assistance that are simply unaffordable.

Additionally, the Commission notes that North Carolina currently has 11 open disaster declarations dating back to 1995 and questions whether failure to bring those declarations to orderly closure is wise public policy.

Recommendation: The Commission recommends adoption of the draft bill included in Appendix B. This legislation (hereinafter referred to as Commission Amendments) would accomplish two purposes. The first is simply to collect existing statutory provisions governing emergency powers of State and local officials, to relocate them within the General Statutes, and to integrate them with statutes governing disaster response and relief. The second is to establish the legal framework within which three levels of disaster severity can be recognized. Only the second purpose is discussed below.

Tiered Proclamations. Commission Amendments would establish three types of disaster declarations graduated according to the severity of the disaster event. Generally speaking, a Type I declaration would apply where the level and extent of destruction is insufficient to support a presidential disaster declaration that qualifies the affected area for benefits under the federal Stafford Act. This Act is administered by the Federal Emergency Management Agency (FEMA). A Type II declaration would apply where a presidential disaster declaration is issued and where response and recovery needs can be addressed by disaster programs that currently exist within the State and federal governments. A Type III declaration would be reserved for events so devastating that conventional programs leave significant unmet needs. In a Type III situation, the State should be expected to create new, time-limited programs that address the unique aspects of the event. Hurricane Floyd, which prompted an extra session of the General Assembly, special attention from the Congress, and unusual commitments from federal and State executive agencies, exemplifies a Type III disaster situation.

Individual Assistance. The Commission Amendments further create three levels of disaster benefits. A basic feature of the benefit structure is that a standard package of assistance would be available for affected individuals and families, and that the components of that “Individual Assistance” package would be the same whether the disaster event receives a Type I, Type II, or Type III proclamation. The cost of the Individual Assistance Program would fall entirely upon the State in a Type I situation, but would be shared by the State and federal governments in a Type II or Type III event.

Public Assistance. While Individual Assistance benefit characteristics would not vary with the extent and severity of a disaster event, the same cannot be said for assistance to local public entities. “Public Assistance” would flow to counties, municipalities, or other public entities after a Type I declaration only when the entities incur *uninsurable losses* that exceed \$10,000 and are more than 0.5% of their operating budgets. The entities would be expected to meet a match requirement of 25%. Under a Type II or Type III declaration, Public Assistance benefits would follow the federal Stafford Act, except that in the extreme event receiving Type III status it would be expected that the Governor and General Assembly would act to fund and implement State programs designed to address unmet Public Assistance needs unique to that event. Eligible local entities would not be required to match federal or State funding for Public Assistance in Type II or Type III cases.

Means Testing. The terms of current federal disaster assistance programs, which have provided the foundation for aid to the victims of Hurricane Floyd, implicitly applies “means testing” as a part of eligibility determination. Victims who have sufficient income/assets to qualify for a Small Business Administration disaster loan are not fully eligible for grant benefits. The Legislative Study Commission on Disaster Response and Recovery recommends that no disaster victim be disqualified for benefits because of income or wealth. Thus the amendatory language incorporated in the proposed bill does not require means testing. It should be noted that the State does not have authority to change rules governing elements of federal assistance programs. The Commission's recommendation would only control programs that are entirely State-funded, such as Individual Assistance in a Type I disaster or supplemental programs that might be created under a Type III declaration.

2. Disaster Reserve Fund

Finding: The Commission finds that in the event of a large natural disaster, costs of response and recovery will exceed the fund sources upon which the State has relied in past disaster episodes. Continued reliance upon “reversions”, funds appropriated for other purposes but unexpended and available for disaster use, must be viewed skeptically. Access to unexpended funds diminishes as the fiscal year progresses. Furthermore, the amount of reversions has been permanently reduced through policy changes occurring over the past decade.

Like most states, North Carolina has a Contingency and Emergency Fund. Unlike those other states, however, we have historically maintained a low fund balance. For many years, the annual appropriation for contingencies and emergencies has been \$1,125,000.

Although the Savings Reserve Account created in G.S. 143-15.3 was established for the purpose of cushioning State government programs against the disruptive impact of unforeseen economic downturns, the General Assembly did draw upon that account for \$286 million of the \$836 million appropriated for Hurricane Floyd relief in the 1999 Special Session. By statute, the Savings Reserve target balance is 5% of the previous year’s General Fund operating budget. The actual balance, reflecting action in the 2000 Session of the General Assembly, is now \$156 million, nearly a half billion dollars short of the target.

Recommendation: The Commission recommends that the North Carolina General Assembly amplify the precedent established in the 1999 Extra Session by specifically designating a portion of the Savings Reserve as a Disaster Contingency subaccount, which subaccount would only be used for relief and assistance in the event of a Category III disaster proclamation. As with the larger Savings Reserve, expenditures from the subaccount would be subject to appropriation by the General Assembly.

The Disaster Contingency balance within the Savings Reserve should be assigned a target level of \$250 million.

The Commission recommends that during its 2001 Session, the General Assembly select from among the following options for funding the Disaster Contingency portion of the Savings Reserve:

1. Retrieve a portion of the unspent Hurricane Floyd Reserve funds and deposit it in a Savings Reserve – Disaster Contingency subaccount; and/or
2. Designate a portion of the existing Savings Reserve Account fund balance as a Disaster Contingency balance; and/or
3. Designate a portion of the year-end credit balance for deposit in the Savings Reserve – Disaster Contingency subaccount.

3. Long-Term Recovery

Finding: The Commission finds that there is a lack of a long-term recovery component within the existing operation of the Division of Emergency Management. This deficiency, as experienced after Hurricane Floyd, resulted in less than adequate recovery efforts following that storm. To help transition the Division of Emergency Management's Emergency Operations Plan from a short-term emergency response to a long-term recovery program, Governor Hunt created the Disaster Recovery Center on November 23, 1999. The Disaster Recovery Center, a time-limited, State agency, was to focus solely on recovery efforts for Hurricane Floyd.

The Division of Emergency Management has continued to administer federal FEMA programs following Hurricane Floyd. The new Disaster Recovery Center has played a key role in helping administer local, State, and federal funds. Additionally, other State agencies have played key roles in emergency response programs and in the administration of purely State-funded recovery assistance after Hurricane Floyd. The combination of so many groups independently striving to reach the same goal, to help put the people of North Carolina back on their feet after a natural disaster, has revealed the lack of a well-defined command system.

The Commission finds that after a catastrophic natural disaster, neither the citizens of North Carolina nor the agencies that can help those citizens are as effective as they could be were a long-range plan available. To assure that citizens receive the needed aid in an orderly and timely fashion, that long-range plan needs to be administered by one leading agency.

Recommendation: The Commission recommends that prior to July 1, 2001, the Division of Emergency Management's Emergency Operations Plan be supplemented to include a long-term recovery component. In the case of future natural disasters, the Division of Emergency Management will be the lead coordinating agency to carry out such a plan.

4. Disaster Institute

Finding: The Commission finds that public and private universities, along with community colleges, possess a variety of knowledge resources related to disaster preparedness, response, and recovery. These resources consist of teaching expertise, study and research projects, and institutional capacity to deliver information and training both to the general public and to governmental officials. Currently, universities and community colleges make no systematic effort to collaborate in the field of disaster-related research and training. Likewise, limited coordination exists between education facilities and governmental agencies with emergency management responsibility. Witnesses appearing before the Commission have argued convincingly that college and university resources could be utilized to greater potential.

Recommendation: There should be planned and created an Institute of Disaster Studies. The Institute should be an independent venture created jointly by UNC General Administration and the Department of Community Colleges, but with an advisory board comprised of a combination of academic researchers, teachers, and practicing governmental officials who have a background and/or responsibilities in the area of emergency management. Among the purposes of the Institute would be the following:

1. To facilitate and coordinate research directly or indirectly relevant to disaster planning, disaster mitigation, disaster response, and disaster recovery.
2. To respond to State or local officials who request training or technical assistance.
3. To increase the flow of grant funds from federal, State, or private sources to disaster-related research and training.

The UNC Office of the President, with the cooperation of the Department of Community Colleges, is requested to convene a panel made up of administrators and faculty from the two education systems and to study the feasibility of creating an Institute of Disaster Studies. The panel is requested to address key issues of purpose, operations, location, size, funding, and relationship to other organizations; and is requested to return findings and recommendations to the Commission on or before July 1, 2001.

5. Performance Audit

Finding: The level of State funding provided for recovery in the aftermath of Hurricane Floyd is unprecedented. North Carolina's State agencies did a remarkable job of conceptualizing, designing, and implementing programs to assist those individuals and businesses hardest hit by the disaster.

As emphasized by victims who testified before the Disaster Response and Recovery Commission, some State programs will undoubtedly prove less effective than others. It is important that successful experience be identified for future reference. It is also important to understand the reasons why some well-intentioned efforts did not prove successful.

Recommendation: The Office of State Auditor, as part of its regular performance audit schedule, should conduct a thorough audit of all program activities authorized and funded by the General Assembly in House Bill 2 of the 1999 Extra Session. In addition to any other issues deemed necessary or desirable by the State Auditor, the audit should address the following questions:

1. Have the several State-funded disaster assistance programs been effectively and efficiently administered within the parameters imposed by the General Assembly to meet bona fide needs arising from Hurricane Floyd?
2. Does the administrative system developed to coordinate, facilitate, and execute the several State-funded disaster assistance programs furnish internal controls sufficient to minimize waste, assure compliance with laws and regulations, and provide accurate reporting?

The Commission requests that the performance audit be completed and presented to the General Assembly no later than July 1, 2001.

6. Strengthen Local Emergency Management

Finding: The Commission finds significant variations among local governments when measured in terms of their willingness and ability to address emergency management responsibilities. According to the Department of Crime Control and Public Safety, a majority of our counties and municipalities do not have an emergency response capacity adequate under contemporary standards to meet the threat of extreme natural events. Of the 99 Emergency Management Coordinators at the county level, only 13 are committed to that function on a full-time basis. One county presently does not have a program or a coordinator. The remaining 86 county coordinators perform their emergency management duties with at least one other responsibility.

Since response and recovery activities begin and end at the local level of government, the Commission has determined that the quality of local emergency planning, coordination, and execution is critical to North Carolina's overall disaster response and recovery capabilities.

Recommendation: Steps should be taken to achieve stronger performance and accountability at the local government level.

The State should develop a grant program that combines State and available federal funds to assure that each county can retain the services of an adequately trained, full-time Emergency Management Director/Coordinator.

Although local government employees, Emergency Management Directors should satisfy minimum qualifications imposed by the State and should be subject to ongoing training and education requirements. County emergency management programs should also meet minimum standards that are imposed by the State. These standards and qualifications, set by the State, must be followed in order to receive State grant funds.

Each county should be statutorily required to maintain an Emergency Operations Plan subject to periodic review and approval by the State Division of Emergency Management. These plans should incorporate the various hazards and risks that may be associated with a particular jurisdiction. Failure to meet this requirement should result in the termination of grant funds.

The State should act aggressively to assure that training opportunities are available to local government officials, including Emergency Management Directors in particular.

The State Division of Emergency Management, along with the North Carolina Emergency Management Association and the Association of County Commissioners, should work together to develop the aforementioned standards and qualifications that will be imposed on local programs.

APPENDIX A

SESSION LAW 1999-463 EXTRA SESSION **HOUSE BILL 2**

AN ACT TO ENACT THE HURRICANE FLOYD RECOVERY ACT OF 1999, MAKING FINDINGS AS TO DAMAGE CAUSED BY HURRICANE FLOYD CONCERNING ESTABLISHMENT OF THE HURRICANE FLOYD RESERVE FUND, MAKING APPROPRIATIONS TO THE HURRICANE FLOYD RESERVE FUND, AUTHORIZING TEMPORARY RULES FOR IMPLEMENTATION OF THIS ACT, AUTHORIZING ESTABLISHMENT OF NEW PROGRAMS, EXPANSION OF EXISTING PROGRAMS, AND MODIFICATION OF EXISTING PROGRAMS TO IMPLEMENT THIS ACT, AUTHORIZING TRANSFER OF FUNDS TO FEDERAL AGENCIES AND LOCAL GOVERNMENTS, AUTHORIZING TIME-LIMITED POSITIONS TO IMPLEMENT THIS ACT, AUTHORIZING ADVISORY COUNCILS TO ADVISE STATE AGENCIES ON RECOVERY EFFORTS, PROVIDING FOR TAX EXEMPTION OF BENEFITS, CONCERNING A STUDY OF DISASTER COUNTIES TIER RANKINGS, CREATING A DISASTER RESPONSE AND RECOVERY COMMISSION, PROVIDING REPORTING REQUIREMENTS, PROVIDING FLEXIBILITY IN THE SCHOOL CALENDAR TO ACCOMMODATE EXTRAORDINARY CIRCUMSTANCES, AND EQUALIZING THE UNEMPLOYMENT INSURANCE WAITING PERIOD FOR ALL UNEMPLOYED FLOOD VICTIMS.

The General Assembly of North Carolina enacts:

....

PART V. CREATION OF DISASTER RESPONSE AND RECOVERY COMMISSION

Section 5.(a) Commission Established. – There is established the Legislative Commission to Address Hurricane Floyd Disaster Relief ("Commission").

Section 5.(b) Membership. – The Commission shall consist of 21 members as follows:

- (1) Seven members appointed by the Governor.
- (2) Seven members appointed by the Speaker of the House of Representatives.
- (3) Seven members appointed by the President Pro Tempore of the Senate.

Appointments to the Commission shall be made not later than January 15, 2000. A vacancy in the Commission or as chair of the Commission resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made.

Section 5.(c) Duties of Commission. – The Commission shall study:

- (1) The adequacy of the State's short-term and long-term response to natural disasters under current law and necessary modifications in the State's response to future natural disasters. In the course of this study, the Commission may consider:
 - a. The circumstances under which an extraordinary State response to extraordinarily severe and widespread devastation is appropriate and the components of such an extraordinary State response.

- b. The need for dedicated sources of funding for disaster recovery.
 - c. The need to modify State policies and amend State laws to mitigate damages in future disasters and to remove administrative obstacles to the recovery effort.
- (2) Short- and long-term recovery efforts for Eastern North Carolina in response to Hurricane Floyd and strategies for supplementing, improving, and enhancing those recovery efforts.
 - (3) The causes of the flooding and the extent to which each cause contributed to catastrophic flood damage. In particular, the Commission shall evaluate the effectiveness of dams, dikes, and other flood control structures and determine the extent to which releases of water from dams, dikes, other flood control structures, and locks may have affected the degree of flooding.

Section 5.(d) Consultation. – The Commission may consult with appropriate State departments, agencies, and board representatives on issues related to its duties.

Section 5.(e) Organization. – Members of the Commission and its subcommittees shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate one member to serve as cochair of the Commission. The cochairs shall call the initial meeting of the Commission on or before February 1, 2000. The Commission shall subsequently meet upon such notice and in such manner as its members determine. A majority of the members of the Commission shall constitute a quorum.

The Commission may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission of the General Assembly, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. Upon the direction of the Legislative Services Commission, the Legislative Assistants Directors of the Senate and of the House of Representatives shall assign clerical staff to the Commission. The expenses for clerical employees shall be borne by the Commission.

The Commission may appoint subcommittees of its members and other knowledgeable persons or experts to assist it.

Section 5.(f) Citizen Participation. – The Commission shall establish a process of citizen participation that assures the citizens of North Carolina of the opportunity to be informed of and contribute to the work of the Commission. It shall hold meetings throughout the State.

Section 5.(g) Cooperation by Government Agencies. – The Commission may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

Section 5.(h) Funding. – The Commission may apply for, receive, and accept grants of non-State funds or other contributions as appropriate to assist in the performance of its duties.

Section 5.(i) Report. – The Commission shall submit interim reports to the 2000 Regular Session of the 1999 General Assembly and the 2001 General Assembly and shall submit a final report of its findings and recommendations on May 1, 2002, to the General Assembly, the Governor, and the citizens of the State. The Commission shall terminate upon filing its final report.

APPENDIX B: LEGISLATIVE PROPOSAL – A BILL TO BE ENTITLED AN ACT TO AMEND THE LAWS REGARDING EMERGENCY MANAGEMENT AS RECOMMENDED BY THE LEGISLATIVE DISASTER RESPONSE AND RECOVERY COMMISSION.